

EXHIBIT D

1 *Landry, et al. v. The United States of America*

2 Case No. 3:13-cv-00537-H-WVG

3 Exhibit C

4 **ATTORNEY FEE DECLARATION**

5
6 I, BRIAN K. FINDLEY, hereby declare:

7 1. I am an attorney duly licensed to practice law before the district
8 court of the southern district of California and am employed by Mulligan &
9 Banham, attorneys of record for Plaintiffs in this action, JENSEN
10 LANDRY, BRAILEY LANDRY and BRAILEY LANDRY's guardian ad
11 litem, Jeanna Mealer. I have personal knowledge of the matters stated
12 herein except those matters stated on information and belief. I am
13 competent to testify and if called as a witness, I could and would testify as
14 follows:

15 2. My firm's fee in this case is based upon a contingency fee
16 contract signed by a legal guardian of the minor child BRAILEY
17 LANDRY, which allows for 25% of the gross recovery as a fee after a
18 lawsuit is filed, pursuant to the Federal Tort Claims Act.

19 3. My firm's total fee for representation of all three persons listed
20 above in regard to this action is \$3,750.00. This is 25% of the gross
21 settlement amount of \$15,000. Our total costs being reimbursed are
22 \$662.35.

23 4. In regard to Plaintiff, BRAILEY LANDRY, the minor to whom
24 the attached petition relates: BRAILEY's portion of the gross settlement is
25 \$12,850.00. The attorney's fee upon this amount is \$3,212.50 (25% of
26 \$12,850.00). After deduction for costs, the net amount to be deposited in a
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1 blocked account for BRAILEY is \$8,975.15 (12,850.00 - \$3,212.50 -
2 \$662.35 = \$8,975.15).

3 5. The total costs are being subtracted from BRAILEY's recovery
4 and not the other recovering Plaintiff, JENSEN, in a deliberate effort to
5 allow a net recovery to JENSEN LANDRY of \$1,600 after fees and costs.
6 This is achieved by allocation of \$2,150.00 (or 14.3%) of the total \$15,000
7 recovery to JENSEN LANDRY, minus a 25% attorney's fee of \$537.50,
8 netting \$1,600 to JENSEN LANDRY.

9 6. This is a medical malpractice action governed by two statutory
10 schemes regulating attorneys fees, MICRA and the Federal Tort Claims
11 Act (FTCA). The \$3,750.00 fee requested by my firm pursuant to the
12 FTCA is less than the 40% after-costs fee of \$4,875.06 that would be
13 allowed under MICRA.

14 7. The fee that my firm asks this court to approve, \$3,750.00 on
15 BRAILEY LANDRY's gross recovery of \$12,850.00 is reasonable in that
16 over 40 hours of attorney time were expended in regard to BRAILEY
17 LANDRY's injury claim in client meetings and teleconferences, review of
18 medical records, research, drafting a comprehensive demand package and
19 administrative claim, drafting and filing a lawsuit and guardian ad litem
20 papers, negotiating with the Offices of the Judge Advocate General and
21 U.S. Attorney, and drafting these petition papers. The fee is therefore less
22 than \$93.75 per hour. Myself and the other attorneys at my firm working
23 on this claim are experienced litigators. Our rates on hourly billable
24 matters range from \$200.00 to \$450.00 per hour.

25 8. BRAILEY LANDRY's mother, JENSEN LANDRY, and
26 BRAILEY's guardian ad litem, Jeanna Mealer, have been informed of and
27 approve the final amount of the fee.
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I declare under penalty of perjury that the foregoing is true and correct.

DATED: May 29, 2013

s/Brian K. Findley

Brian K. Findley